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**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**DEPARTMENT OF THE TREASURY**

**19 CFR Part 12**

**CBP Dec. 12-11**

**RIN 1515-AD89**

**Extension of Import Restrictions Imposed on Archaeological and  
Ethnological Materials from Peru**

**AGENCIES:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological and ethnological material from Peru. The restrictions, which were originally imposed by Treasury Decision (T.D.) 97-50 and last extended by CBP Dec. 07-27, are due to expire on June 9, 2012, unless extended.

The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect

for an additional five years, and the CBP regulations are being amended to indicate this third extension. These restrictions are being extended pursuant to determinations of the State Department under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. T.D. 97-50 contains the Designated List of archaeological and ethnological materials that describes the articles to which the restrictions apply.

**DATES:** Effective June 9, 2012.

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, George F. McCray, Esq., Chief, Cargo Security, Carriers and Immigration Branch, Regulations and Rulings, Office of International Trade, (202) 325-0082. For operational aspects, Michael Craig, Chief, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6558.

**SUPPLEMENTARY INFORMATION:**

**Background**

Pursuant to the provisions of the 1970 UNESCO Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 et seq.), the United States entered into a bilateral agreement with the Republic of Peru on June 9, 1997, concerning the imposition of import restrictions on pre-Columbian archaeological materials of Peru dating to the Colonial period and certain Colonial ethnological material from Peru. On

June 11, 1997, the former United States Customs Service published T.D. 97-50 in the **Federal Register** (62 FR 31713), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological and ethnological materials covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are “effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists” (19 CFR 12.104g(a)).

On June 6, 2002, the former United States Customs Service published T.D. 02-30 in the **Federal Register** (67 FR 38877), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until June 9, 2007.

On June 6, 2007, CBP published CBP Dec. 07-27 in the **Federal Register** (72 FR 31176), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years.

On November 11, 2011, the Department of State received a request by the Government of Peru to extend the Agreement. After the Department of State proposed to extend the Agreement and reviewed the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, State Department, determined that the cultural heritage of Peru continues to be in jeopardy from pillage of

archaeological and certain ethnological materials and made the necessary determination to extend the import restrictions for an additional five-year period. Diplomatic notes were exchanged on May 10, 2012, reflecting the extension of those restrictions for an additional five year period. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions.

The Designated List of Archaeological and Ethnological Material from Peru covered by these import restrictions is set forth in T.D. 97-50, see 62 FR 31713 dated June 11, 1997. The Designated List and accompanying image database may also be found at the following internet website address: <http://exchanges.state.gov/heritage/culprop/pefact.html>, under “III. Categories of Objects Subject to Import Restriction”, by clicking on “[Designated List](#)” and on “[Peru section](#) of the Image Database”.

It is noted that the materials identified in T.D. 97-50 as “certain pre-Columbian archaeological materials of Peru dating to the Colonial period and certain Colonial ethnological material from Peru” are referred to in the Determination to Extend as “Archaeological Material from the Prehispanic Cultures and Certain Ethnological Material from the Colonial Period of Peru.” The materials identified in T.D. 97-50 and those identified in the Determination to Extend are the same.

The restrictions on the importation of these archaeological and ethnological materials from Peru are to continue in effect through June 9, 2017. Importation of such materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

### **Inapplicability of Notice and Delayed Effective Date**

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

### **Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

### **Executive Order 12866**

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

### **Signing Authority**

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

### **List of Subjects in 19 CFR Part 12**

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

### **Amendment to CBP Regulations**

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

## PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

\* \* \* \* \*

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

\* \* \* \* \*

### **§ 12.104g [Amended]**

2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Peru by removing the reference to “CBP Dec. 07-27” and adding in its place “CBP Dec. 12-11” in the column headed “Decision No.”.

David V. Aguilar  
Acting Commissioner  
U.S. Customs and Border Protection

Approved: June 4, 2012

Timothy E. Skud  
Deputy Assistant Secretary of the Treasury

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